

AMENDED IN ASSEMBLY MARCH 1, 2012

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE MAY 5, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 542

Introduced by Senator Price

February 17, 2011

An act to ~~add Section 5012 to amend Section 5006 of the Penal Code,~~
relating to ~~inmates~~ *the Inmate Welfare Fund.*

LEGISLATIVE COUNSEL'S DIGEST

SB 542, as amended, Price. ~~Inmates; tattoos.~~ *Inmate Welfare Fund.*

Existing law establishes the Inmate Welfare Fund of the Department of Corrections and Rehabilitation in the State Treasury. Existing law requires that the money in the fund constitutes a trust to be used for the benefit, education, and welfare of inmates of prisons and institutions under the jurisdiction of the department, as specified. Existing law requires the Department of Finance to conduct a biennial audit of the fund and, at the end of each intervening fiscal year, to prepare a statement of operations.

Existing law also authorizes the sheriff of each county to maintain an inmate welfare fund to be kept in the treasury of the county, as specified. Certain counties have established an inmate welfare fund commission or inmate welfare fund committee to oversee the use of these funds.

This bill would require an unspecified percentage of the money in the Inmate Welfare Fund to be, upon appropriation, transferred annually to county departments of probation to be utilized for the coordination

of mental health services after an inmate's release from state custody. The bill would define mental health services, for purposes of this provision, to include, but not be limited to, consultation and referral to community mental health providers and programs, transportation to mental health appointments and treatment facilities, and transfer of any prescriptions used to treat mental illness. The bill would require each county department of probation to prepare a biannual report regarding the use of the funds and to submit it to the county inmate welfare fund commission or committee, or to the board of supervisors, or both. By imposing new duties on county probation departments, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law provides that the Department of Corrections and Rehabilitation has jurisdiction over the health and health care of inmates.~~

~~This bill would require that inmates only receive, remove, or permit removal of tattoos from themselves or others if it is done in a manner sanctioned by the warden as specified. The bill would prohibit inmates from tattooing themselves or permitting themselves or others to be tattooed with gang-affiliated, racist, anti-Semitic, or similarly intolerant tattoos. The bill would also make related findings and declarations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 5006 of the Penal Code is amended to*
- 2 *read:*
- 3 5006. (a) All moneys now held for the benefit of prisoners
- 4 including that known as the Inmate Canteen Fund of the California
- 5 Institution for Men, and the Inmate Welfare Fund of the California
- 6 Institution for Women, and the Trust Contingent Fund of the State
- 7 Prison at Folsom, and the S.P.L. Commissary, Canteen Account,
- 8 Hobby Association, Camp Account, Library Fund, News Agency

1 of the State Prison at San Quentin, the Prisoners' Fund, and the
 2 Prisoners' Employment Fund, shall be deposited in the Inmate
 3 Welfare Fund of the Department of Corrections *and Rehabilitation*,
 4 in the State Treasury, which fund is hereby created. ~~The~~ *Except*
 5 *as provided in subdivision (b), the money in the fund shall be used*
 6 *for the benefit, education, and welfare of inmates of prisons and*
 7 *institutions under the jurisdiction of the Department of Corrections*
 8 *and Rehabilitation*, including, but not limited to, the establishment,
 9 maintenance, employment of personnel for, and purchase of items
 10 for sale to inmates at canteens maintained at the state institutions,
 11 and for the establishment, maintenance, employment of personnel,
 12 and necessary expenses in connection with the operation of the
 13 hobby shops at institutions under the jurisdiction of the ~~Department~~
 14 ~~of Corrections~~ department.

15 (b) *At least ___ percent of the money in the fund shall, upon*
 16 *appropriation by the Legislature, be transferred annually to county*
 17 *departments of probation to be utilized for the coordination of*
 18 *mental health services after an inmate's release from state custody.*
 19 *For purposes of this subdivision, mental health services shall*
 20 *include, but shall not be limited to, consultation and referral to*
 21 *community mental health providers and programs, transportation*
 22 *to mental health appointments and treatment facilities, and transfer*
 23 *of any prescriptions used to treat mental illness. Each county*
 24 *department of probation shall prepare a biannual report of the*
 25 *use of the funds and submit it to the county inmate welfare fund*
 26 *commission, or the equivalent entity, or the board of supervisors,*
 27 *or both.*

28 ~~There~~

29 (c) *There shall be deposited in the Inmate Welfare Fund all net*
 30 *proceeds from the operation of canteens and hobby shops and any*
 31 *moneys which may be assigned to the state prison by prisoners for*
 32 *deposit in the fund. The moneys in the fund shall constitute a trust*
 33 *held by the Director of Corrections and Rehabilitation for the*
 34 *benefit and welfare as herein defined of all of the inmates and*
 35 *former inmates of institutions and prisons under the jurisdiction*
 36 *of the* ~~Department of Corrections~~ department.

37 ~~The~~

38 (d) *The Department of Finance shall conduct a biennial audit*
 39 *of the Inmate Welfare Fund to include an audit report which shall*
 40 *summarize expenditures from the fund by major categories. At the*

1 end of each intervening fiscal year, a statement of operations shall
2 be prepared which shall contain the same information as would
3 be provided in the biennial audit. At least one copy of any
4 statement of operations or audit report shall be placed in each
5 library maintained by the Department of Corrections *and*
6 *Rehabilitation* and shall be available there to any inmate.

7 *SEC. 2. If the Commission on State Mandates determines that*
8 *this act contains costs mandated by the state, reimbursement to*
9 *local agencies and school districts for those costs shall be made*
10 *pursuant to Part 7 (commencing with Section 17500) of Division*
11 *4 of Title 2 of the Government Code.*

12 ~~SECTION 1. The Legislature finds and declares all of the~~
13 ~~following:~~

14 ~~(a) Prisoner-initiated tattoos are widespread in the California~~
15 ~~correctional system.~~

16 ~~(b) According to the Centers for Disease Control (CDC), there~~
17 ~~is an average of 1,240 inmates infected with HIV/AIDS in~~
18 ~~California's prisons. The CDC estimates the cost to care for these~~
19 ~~inmates at over eighteen million dollars (\$18,000,000).~~

20 ~~(c) It is estimated that nearly 40 percent of the state's prison~~
21 ~~population is infected with hepatitis C, according to a lawsuit filed~~
22 ~~in 2008.~~

23 ~~(d) Ninety percent of all prisoners are ultimately released from~~
24 ~~state prison.~~

25 ~~(e) The majority of inmates have sex within the first 24 hours~~
26 ~~of their release from state prison.~~

27 ~~(f) The average duration of incarceration in California prisons~~
28 ~~is just over two years.~~

29 ~~(g) Transmission of HIV and Hepatitis C in prison quickly~~
30 ~~affects the general population.~~

31 ~~(h) It is in the interests of protecting the public health to~~
32 ~~acknowledge that tattooing occurs in prison and to take steps to~~
33 ~~make prison tattoos safer and less prone to transmission of~~
34 ~~blood-borne pathogens.~~

35 ~~(i) Acknowledging the behavior that tattooing occurs in prison,~~
36 ~~combined with appropriate supervision, will ultimately help to~~
37 ~~mitigate dangerous conditions for correctional officers and public~~
38 ~~health crises for the communities into which inmates are released.~~

39 ~~SEC. 2. Section 5012 is added to the Penal Code, to read:~~

1 ~~5012. (a) Inmates shall only receive, remove, or permit~~
2 ~~removal of tattoos from themselves or others if it is done in a~~
3 ~~manner sanctioned by the warden and in accordance with all the~~
4 ~~following:~~

5 ~~(1) In a supervised environment that the warden determines~~
6 ~~does not compromise the safety of the inmate, other inmates, prison~~
7 ~~personnel, or the public at large.~~

8 ~~(2) If a qualified medical professional is present and provides~~
9 ~~appropriate supervision.~~

10 ~~(3) In accordance with the required health and safety standards~~
11 ~~outlined in Sections 119308 and 119309 of the Health and Safety~~
12 ~~Code.~~

13 ~~(b) Inmates shall not tattoo themselves or permit themselves or~~
14 ~~others to be tattooed with gang-affiliated, racist, anti-Semitic, or~~
15 ~~similarly intolerant tattoos.~~